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AMENDED IN ASSEMBLY JULY 20, 2001

AMENDED IN SENATE JUNE 4, 2001

AMENDED IN SENATE MAY 3, 2001

AMENDED IN SENATE APRIL 18, 2001

AMENDED IN SENATE MARCH 27, 2001

AMENDED IN SENATE MARCH 8, 2001

AMENDED IN SENATE MARCH 1, 2001

SENATE BILL

No. 19

Introduced by Senator Escutia

(Principal coauthor: Senator Alpert)

**(Coauthors: Senators Bowen, Kuehl, Ortiz, Romero, Speier,
Torlakson, and Vasconcellos)**

(Coauthors: Assembly Members Alquist, Aroner, Calderon, Cedillo,
Chavez, Diaz, Firebaugh, Keeley, Koretz, Steinberg, Strom-Martin,
and Washington)

December 4, 2000

An act to add Article 2.5 (commencing with Section 49430) to Chapter 9 of Part 27 of the Education Code, relating to pupil health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 19, as amended, Escutia. Pupil health.

(1) Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils.

This bill would require every *public* school to post a summary of nutrition and physical activity laws and regulations, and the school district policies and would require the State Department of Education to develop the summary of the laws and regulations.

(2) Existing law requires that 50% of the items, other than foods reimbursed under federal law, offered for sale each schoolday at any schoolsite by any entity or organization during regular school hours be selected from a prescribed list of foods.

The bill would, commencing January 1, 2004, require the sale of all foods on school grounds at elementary and middle schools and at schools participating in a pilot program established by the bill to be approved by the school principal or a designee, subject to funding being appropriated in the ~~2003-04~~ Budget Act of 2003.

The bill would, subject to funding being appropriated in the ~~2003-04~~ Budget Act of 2003, commencing January 1, 2004, with certain exceptions, permit the sale of foods at elementary schools only as full meals during breakfast and lunch periods and would require items that are sold during specified breaks to meet certain standards ~~applicable to foods sold during the schoolday in secondary schools~~. The bill would restrict the sale of specified beverages at elementary and middle schools. The bill would require certain foods sold to pupils at specified times ~~outside of the federal school meal program~~ to meet specified requirements. The bill would require fruits and vegetables to be offered for sale at any location on the schoolsite of ~~a secondary~~ *an elementary* school where ~~competitive~~ foods are sold.

(3) Existing law requires the Superintendent of Public Instruction to reimburse school districts for certain costs associated with free and reduced-price meals.

This bill would, commencing January 1, 2004, require that reimbursement to be increased to 26¢ per meal sold or served to pupils at elementary or middle schools.

(4) Existing law provides for various advisory committees to be formed at the school district level.

This bill would authorize a school district *maintaining at least one middle school* to convene a Child Nutrition and Physical Activity Advisory Committee that would develop and recommend to the governing board of the school for its adoption a school district policy on nutrition and physical activity. The committee would include food

service directors, food service staff, parents, pupils, physical and health education teachers, dietitians, doctors, nurses, and interested community members. In developing the policy, the committee would be required to hold at least one public hearing. The bill would require the State Department of Education to provide a grant to a school district that develops and adopts a policy by January 1, 2003. The bill would appropriate \$8,000,000 to the Superintendent of Public Instruction for grants and for technical support to school districts, as prescribed.

The funds appropriated by this bill for grants to school districts would be applied toward the minimum funding requirements for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution.

(5) By imposing new requirements on school districts, the bill would impose state-mandated local programs.

(6) This bill would require the Superintendent of Public Instruction to supervise the implementation of certain provisions enacted by the bill, as prescribed, for noncompliance. If the Superintendent of Public Instruction finds that a school district or county superintendent of schools fails to comply with those provisions, the superintendent would be required to provide the school district with a noncompliance notification and the school district would be required to adopt a corrective plan.

(7) The bill would require the Department of Education to establish a pilot program in which high schools voluntarily adopt food sale requirements.

(8) This bill would require the State Department of Education, with advice from the Child Nutrition Advisory Council, to design and implement a financial incentive grant program to help and encourage schools to implement their policies and meet specified goals.

(9) This bill would require the State Department of Health Services to monitor implementation of the program and to report to the Legislature annually and on June 1, 2004, as prescribed.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) Childhood obesity has reached epidemic levels in
3 California and throughout the nation. Recent studies have shown
4 that more than 30 percent of California youth are overweight and
5 that adolescent obesity has doubled over the past two decades. In
6 some California school districts, as many as 50 percent of pupils
7 are overweight.

8 (b) Overweight and obese children are at higher risk for
9 long-term health problems, including cardiovascular disease,
10 stroke, hypertension, high blood pressure, gallbladder disease,
11 Type 2 diabetes, asthma, and certain cancers. The lives of
12 overweight youth are often also affected by discrimination,
13 psychological stress, poor body image, and low self-esteem.
14 Eighty percent of obese adolescents remain obese as adults.

15 (c) Two-thirds of all deaths in California result from four
16 chronic diseases: heart disease, cancer, stroke, and diabetes.
17 Health experts agree that one of the most effective ways to prevent
18 these chronic diseases is to establish policies and programs that
19 encourage children and adolescents to develop healthy eating and
20 exercise habits they can maintain throughout their lives.

21 (d) A child who is physically healthy is more likely to be
22 academically motivated, alert, and successful. Results from the
23 1999 Physical Fitness test showed that only 20 percent of pupils
24 in grades 5, 7, and 9 met the requirement to be considered fit.

25 (e) Healthy eating also plays an important role in learning and
26 cognitive development. Poor diet has been found to adversely
27 influence the ability to learn and to decrease motivation and
28 attentiveness.

29 (f) The school environment plays an influential role in the
30 foods children eat nearly every day. While the United States
31 Department of Agriculture (USDA) regulates the nutrient content



1 of meals sold under its reimbursable meal program, similar
2 standards do not exist for “competitive foods” that are sold
3 outside the USDA meal programs. Competitive foods are often
4 very high in added sugar, sodium, and fat.

5 (g) The state’s support of school food services is inadequate.
6 The State Department of Education monitors schools only once
7 every five years and lacks the resources to provide any technical
8 assistance. The last time the state increased the state meal subsidy,
9 beyond a cost-of-living adjustment, was in 1981, leaving
10 California ranked 41st in the nation in school meal reimbursement
11 rates. In order to generate revenue, many schools sell or allow
12 vendors to sell competitive foods on campus.

13 (h) In a survey conducted in 2000, 95 percent of responding
14 California school districts reported that they sell fast foods, the
15 most common of which are sodas, pizza, cookies, chips, and
16 burritos, contributing to the fact that carbonated drinks are the
17 single biggest source of refined sugars in the American diet,
18 approximately 70 percent of children in the United States who are
19 2 to 11 years of age exceeded current dietary recommendations for
20 intakes of total and saturated fat, and only 21 percent of California
21 children meet the goal of eating five servings of fruits and
22 vegetables per day.

23 SEC. 2. Article 2.5 (commencing with Section 49430) is
24 added to Chapter 9 of Part 27 of the Education Code, to read:

25
26 Article 2.5. The Pupil Nutrition, Health, and Achievement Act
27 of 2001
28

29 49430. As used in this article, the following terms have the
30 following meanings:

31 (a) “Elementary school” means a public school that maintains
32 any grade ~~below grade 6~~ *from kindergarten to grade 6, inclusive,*
33 *but no grade higher than grade 6.*

34 (b) “Middle school” means any public school that maintains
35 grades 7 ~~and 8 and~~ *or 8, but no grade lower than grade 6 or higher*
36 *than 9.*

37 (c) “High school” means any *public* school maintaining *any of*
38 *grades 10 to 12, inclusive.*

39 (d) “Full meal” means any combination of food items that
40 meet a USDA-approved meal pattern.

(e) “Sport drinks” means any electrolyte replacement beverage that contains no more than 25 grams of sweetener per 12 ounce serving.

49430.5. (a) The reimbursement a school receives for free and reduced-price meals sold or served to pupils in elementary or middle schools shall be increased to twenty-six cents (\$0.26).

(b) Each elementary and middle school shall receive a reimbursement of thirteen cents (\$0.13) for meals sold at full price.

(c) To qualify for the increased reimbursement for free and reduced-price meals and for the reimbursement for meals sold at full price, a school shall follow the United States Department of Agriculture’s Enhanced Food Based Meal Pattern, the United States Department of Agriculture’s Nutrient Standard Meal Planning, or California’s SHAPE Menu Patterns.

(d) The reimbursement rates set forth in this section shall be adjusted annually for increases in cost of living in the same manner set forth in Section 42238.1.

(e) This section shall become operative on January 1, 2004.

49431. (a) At elementary and middle schools, and in those schools participating in the pilot program created pursuant to Section 49433.7, the sale of all foods on school grounds shall be approved for compliance with the nutrition standards in the section by the principal of the school or by the principal’s designee.

(b) (1) At elementary schools, the only food that may be sold to pupils during breakfast and lunch periods is food that is sold as a full meal. This subdivision does not prohibit the sale of fruits, vegetables, or beverages as individual items.

(2) ~~Individual food items sold to pupils~~ *An individual food item sold to a pupil* during morning or afternoon breaks at elementary schools shall meet ~~the standards for foods sold to pupils at middle schools, as set forth in subdivision (e).~~ *all of the following standards:*

(A) *Not more than 35 percent of its total calories shall be from fat. This subparagraph does not apply to the sale of nuts or seeds.*

(B) *Not more than 10 percent of its total calories shall be from saturated fat.*

(C) *Not more than 35 percent of its total weight shall be composed of sugar. This subparagraph does not apply to the sale of fruits or vegetables.*

(3) Regardless of the time of day water, milk, and 100 percent fruit juices are the only beverages that may be sold to pupils at elementary school.

(4) At elementary schools, fruit and vegetables shall be offered for sale at any location where food is sold.

(c) In middle schools, from ~~one-half~~ *one-half* hour before the start of the ~~school day~~ *school day* until after the end of the last lunch period, ~~the following provisions apply:~~

~~(1) Only the following beverages may be sold to pupils at middle schools:~~

~~(A) Fruit-based drinks that do not contain additional sweeteners.~~

~~(B) Water.~~

~~(C) Milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar nondairy milk.~~

~~(D) Sports drinks.~~

~~(2) No carbonated beverage may be sold to pupils.~~

~~(3) All snacks, sweets, and side dishes sold to pupils outside the federal meal program before the end of the last lunch period must meet all of the following standards:~~

~~(A) Have 35 percent or less of its total calories from fat. This subparagraph does not apply to the sale of nuts and seeds.~~

~~(B) Have 10 percent or less of its total calories from saturated fat.~~

~~(C) Have 35 percent or less of its total weight composed of sugar. This subparagraph does not apply to the sale of fruits or vegetables.~~

~~(D) Be limited to 12 ounces for beverages except sports drinks, which are limited to 20 ounces. The beverage maximum portion limitations set forth in this subparagraph do not apply to water or milk.~~

~~(4) Entree items and side dishes, shall be no larger than the portions of those foods served as part of the federal school meal program.~~

~~(5) Fruits and vegetables shall be offered for sale at any location on the schoolsite where competitive foods are sold.~~

~~(d) Vending machines that contain food or beverage items that no carbonated beverage shall be sold to pupils.~~

(d) At middle schools, vending machines that contain beverage items that do not meet the nutritional standards requirements in this

1 section shall remain locked or be rendered ~~in-operable~~ *inoperable*
2 until after the end of the last lunch period.

3 ~~(e) On no more than four days per year, a school may permit~~
4 ~~organizations consisting solely of pupils of that school to sell food~~
5 ~~items that do not meet the standards set forth in Section 49431 as~~
6 ~~part of a schoolwide fundraising event. Such sales shall be held on~~
7 ~~the same four days for any or all organizations.~~

8 *(e) A school may permit the sale of food items that do not*
9 *comply with subdivisions (a) to (f), inclusive, of this section as part*
10 *of a school fundraising event in any of the following*
11 *circumstances:*

12 *(1) On no more than four days per school year, by organizations*
13 *consisting solely of pupils of the school, if the fundraising event is*
14 *a schoolwide event. The sales shall be held on the same four days*
15 *for any and all pupil organizations.*

16 *(2) By pupils of the school if the sales of those items take place*
17 *off of school premises.*

18 *(3) By pupils of the school if the sales of those items take place*
19 *at least one-half hour after the end of the schoolday.*

20 *(f) Notwithstanding Article 3 (commencing with Section*
21 *33050) of Chapter 1 of Part 20, this section shall not be waived*
22 *pursuant to that article.*

23 *(g) This section shall become operative on January 1, 2004.*
24 *School districts shall be required to comply with this section only*
25 *if funds are appropriated in the Budget Act of 2003 for the purposes*
26 *of Sections 49430.5 and 49433. The State Department of*
27 *Education shall file a written statement with the Secretary of the*
28 *Senate and the Chief Clerk of the Assembly within 30 days after*
29 *enactment of the Budget Act of 2003 stating whether funds have*
30 *been appropriated as set forth in this subdivision.*

31 *49432. By January 1, 2004, every school shall post a summary*
32 *of nutrition and physical activity laws and regulations, and shall*
33 *post the school district's nutrition and physical activity policies, in*
34 *public view within all school cafeterias or other central eating*
35 *areas. The State Department of Education shall develop the*
36 *summary of state law and regulations.*

37 ~~(h) This section shall become operative only if funds are~~
38 ~~appropriated in the Budget Act for the 2003-04 fiscal year for~~
39 ~~purposes of Sections 49430 and 49433.5.~~

1 49433. (a) A school district maintaining at least one
2 elementary or ~~secondary~~ *middle* school may convene a Child
3 Nutrition and Physical Activity Advisory Committee that shall
4 develop and recommend to the governing board of the school
5 district for its adoption, school district policies on nutrition and
6 physical activity. The committee shall include, but need not be
7 limited to, food service directors, food service staff, staff, parents,
8 pupils, physical and health education teachers, dietitians, health
9 care professionals, and interested community members. In
10 developing the policy, the committee shall hold at least one public
11 hearing.

12 (b) The policies shall address issues and goals, including, but
13 not limited to, all of the following:

14 (1) Implementing the nutritional standards set forth in Section
15 49431.

16 (2) Encouraging fundraisers that promote good health habits
17 and discouraging fundraisers that promote unhealthy foods.

18 (3) Ensuring that no pupil is hungry.

19 (4) Improving nutritional standards.

20 (5) Increasing the availability of fresh fruits and vegetables.

21 (6) Ensuring, to the extent possible, that the food served is
22 fresh.

23 (7) Encouraging eligible pupils to participate in the school
24 lunch program.

25 (8) Integrating nutrition and physical activity into the overall
26 curriculum.

27 (9) Ensuring regular professional development for food
28 services staff.

29 (10) Ensuring pupils a minimum of 30 minutes to eat lunch and
30 20 minutes to eat breakfast, when provided.

31 (11) Ensuring pupils engage in healthful levels of vigorous
32 physical activity.

33 (12) Ensuring pupils receive nutrition education.

34 (13) Improving the quality of physical education curricula and
35 increasing training of physical education teachers.

36 (14) Enforcing existing physical education requirements.

37 (15) Altering the economic structures in place to encourage
38 healthy eating by pupils and reduce dependency on generating
39 profits for the school from the sale of unhealthy foods.

40 (16) Developing a financing plan to implement the policies.

1 (c) A school district maintaining at least one elementary or
2 middle school may apply to the State Department of Education for
3 a grant to offset the costs of developing and adopting policies
4 pursuant to this section. The grants shall be available to applicant
5 school districts by January 1, 2002.

6 (d) A school district that develops and adopts policies pursuant
7 to this section by January 1, 2003, shall receive a grant from the
8 State Department of Education on the basis of an equal amount per
9 unit of average daily attendance of the participating school
10 districts, with no participating school district receiving less than
11 four thousand dollars (\$4,000) per grant, and no participating
12 school district receiving more than twenty-five thousand dollars
13 (\$25,000) per grant, to offset the costs of developing the policies.

14 49433.5. The sum of nine million dollars (\$9,000,000) is
15 hereby appropriated from the General Fund to the State
16 Department of Education, for allocation as follows:

17 (a) One million dollars (\$1,000,000) in each of the fiscal years
18 2001–02 and 2002–03, for the purpose of providing technical
19 support to school districts to assist in implementing Section 49433.
20 Activities carried out by the State Department of Education
21 pursuant to this paragraph shall include, but not be limited to,
22 highlighting model nutrition programs, disseminating
23 information to assist in the financial management of school food
24 service programs, and identifying fundraising mechanisms that
25 encourage healthy habits among pupils.

26 (b) Eight million dollars (\$8,000,000) for providing grants to
27 applicant school districts, on the basis of average daily attendance
28 of the participating school districts, for the purposes of developing
29 policies as set forth in subdivision (c) of Section 49433. Of the
30 amount appropriated by this subdivision, the amount of five
31 million dollars (\$5,000,000) shall be allocated in the 2001–02
32 fiscal year, and five million dollars (\$5,000,000) shall be allocated
33 in the 2002–03 fiscal year.

34 ~~49433.7.5.~~

35 49433.7. The State Department of Education shall establish
36 a pilot program in which not less than 10 high schools voluntarily
37 adopt the provisions of Sections 49431 and 49432. Participating
38 districts will be eligible to receive a grant pursuant to subdivision
39 (c) of Section 49433. Districts will be eligible for an increased

1 reimbursement rate for free and reduced-~~priced~~*price* meals
2 served at participating high schools as set forth in Section 49430.

3 49434. (a) The Superintendent of Public Instruction shall
4 annually randomly select not less than 10 percent of the school
5 districts of the state to report compliance with this article as set
6 forth in subdivision (b). The group selected shall be sufficient to
7 provide a statistically random and accurate sampling of the state
8 as a whole.

9 (b) Each school district selected pursuant to subdivision (a)
10 shall report to the Superintendent of Public Instruction in the
11 coordinated compliance review regarding the extent to which it
12 has complied with this article.

13 (c) For any school district that the Superintendent of Public
14 Instruction finds is not in compliance with the mandatory
15 provisions of this article, the Superintendent of Public Instruction
16 shall issue a notice of noncompliance. The noncomplying school
17 district shall adopt, and provide to the Superintendent of Public
18 Instruction, a corrective plan. The corrective plan shall set forth
19 the actions to be taken by the school district in order to ensure that
20 the school district will be in full compliance within one year from
21 the issuance of the noncompliance notification.

22 49435. The State Department of Education, with advice from
23 the Child Nutrition Advisory Council, shall design and implement
24 a financial incentive grant program to help and encourage schools
25 to implement the school district policies and meet the goals
26 described in subdivision (b) of Section 49433.

27 49436. (a) The State Department of Health Services shall
28 monitor the implementation of Section 49431 and shall annually
29 report to the Legislature regarding all of the following:

30 (1) The effectiveness of the policies and standards developed
31 by school districts.

32 (2) The effect of this article upon school districts and pupils,
33 including, but not limited to, an assessment of pupil responses and
34 related findings.

35 (3) Recommendations for improvements or additions.

36 (b) The State Department of Health Services shall report to the
37 Legislature by June 1, 2004, regarding the initial implementation
38 of Section 49431.

39 SEC. 3. Notwithstanding Section 17610 of the Government
40 Code, if the Commission on State Mandates determines that this

1 act contains costs mandated by the state, reimbursement to local
2 agencies and school districts for those costs shall be made pursuant
3 to Part 7 (commencing with Section 17500) of Division 4 of Title
4 2 of the Government Code. If the statewide cost of the claim for
5 reimbursement does not exceed one million dollars (\$1,000,000),
6 reimbursement shall be made from the State Mandates Claims
7 Fund.

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